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**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING
REJECTION OVER A "PRIOR" PATENT**

Docket Number (Optional)
446.033-DIV

In re Application of: **Courtin, et al.**

Application No.: **10/666,072**
September 19, 2003

Filed:
ECHINOCANDIN .. AGENTS

For:

The owner, **Aventis Pharma S.A.**, of **100** percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term prior patent No. **6,677,429** as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later:

- expires for failure to pay a maintenance fee;
- is held unenforceable;
- is found invalid by a court of competent jurisdiction;
- is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;
- has all claims canceled by a reexamination certificate;
- is reissued; or
- is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record. Reg. No. **19,683**

Charles A. Muserlian 11/25/05
Signature Date

Charles A. Muserlian

Typed or printed name

212 302 8989
Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) included.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).
Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Fee Only

16623 U.S. PTO
09/19/03

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

146.1341-DIV.

Anticipated Classification of this Application:

Class: 514 Subclass: 022000

Prior Application

Examiner : David Lukton

Art Unit: 1653

22386 U.S. PTO
10/666072
09/19/03

Hon. Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is a request for filing a

☐ Continuation

application under 37 CFR 1.60

☒ Divisional

of pending prior Application Serial No. 09/581,451

Filed on: June 9, 2000 Of: Olivier COURTIN et al

For: ECHINOCANDIN DERIVATIVES, THEIR METHOD OF PREPARATION
AND THEIR APPLICATION AS ANTI-FUNGAL AGENTS

1. ☒ Enclosed is a copy of the prior application, including the oath or declaration as originally filed and an affidavit of declaration verifying it as a true copy. (See 8 and 8a for drawing requirements.)
2. ☐ Prepare a copy of the prior application.
3. ☒ The filing fee is calculated below:


CLAIMS AS FILED IN THE PRIOR APPLICATION, LESS ANY CLAIMS
CANCELLED BY AMENDMENT BELOW

	<u>Number Filed</u>	<u>Number Filed</u> <u>Excess of 20</u>	<u>Rate</u>	<u>Basic Fee</u>
Total Claims	<u>6</u>	<u>0</u>	x \$18.00	<u>\$750.00</u>
		<u>Excess of 3</u>		<u>0</u>
Independent Claims	<u>5</u>	<u>2</u>	x \$84.00	<u>\$168.00</u>
Multiple dependent claims	[] Yes \$280.00 [X] No			<u>\$ 0</u>
				<u>\$918.00</u>

4. [X] The Asst. Commissioner is hereby authorized to charge any fees which may be required, or to credit any overpayment to Account No. 02-2275. A duplicate copy of this sheet is enclosed.

[X] I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail No. EL 992576082 in an envelope addressed to the Hon. Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on September 19, 2003.

Dated: September 19, 2003


Charles A. Muserlian, #19,683

5. [X] PTO Form 2038 in the amount \$ 918.00 is enclosed.
6. [X] Cancel in this application original claims 2 to 27 of the prior application before calculating the filing fee. (At least one original independent claim must be retained for filing purposes).
7. [] Amend the specification by inserting before the first line in the sentence:
This is a [] Continuation, [] Division of Serial No _____
this application.
8. [] Transfer the drawings from the prior application as of the filing date accorded this application. A duplicate copy of this sheet is enclosed for filing in the prior application file. (May only be used before payment of base issue fee.)
- 8a. [] New formal drawings are enclosed.
- 8b. [X] Priority of application Serial No. 97/15628 & 98/13361 Filed: December 10, 1997 & October 26, 1998, respectively in France is claimed under 35 USC 119.
- 8c. [X] The certified copy has been filed in WIPO.
9. [X] The prior application is assigned of record to Aventis Pharma S.A.

10. [X] The power of attorney in the prior application is to any one of the following: Jordan B. Bierman, Reg. No. 18,629; Charles A. Muserlian, Reg. No. 19,683; Donald C. Lucas, Reg. No. 31,275; all of 600 Third Avenue, New York, NY 10016; Registration No. 18,818; its attorneys to file this Declaration with full power of substitution and revocation and to transact all business in the Patent Office connected therewith.

a. [X] The power appears in the original papers of the prior application.

b. [] Since the power does not appear in the original papers, a copy of the power in the prior application is enclosed.

c. [X] Recognize as associate attorney and address all future communications to:

Charles A. Muserlian, Reg. No. 19,683
c/o Muserlian, Lucas and Mercanti
600 Third Avenue
New York, NY 10016

11. [X] A Preliminary Amendment is enclosed. (Claims added by this amendment have been properly numbered consecutively beginning with the number next following the highest numbered original claims in the prior application.)

12. [X] I hereby verify that the attached papers are a true copy of prior application Serial No. 09/518,451 as originally filed on June 9, 2000.

The undersigned declares further that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the above-identified application or any patent issuing thereon.

Date: September 19, 2003


Charles A. Muserlian
Registration No. 19,683

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